



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0366; FRL-9941-53-Region 5]

Air Plan Approval; Minnesota; Inver Hills SO₂

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Minnesota sulfur dioxide (SO₂) State Implementation Plan (SIP) for Northern States Power Company's Xcel Energy-Inver Hills Generating Plant (Inver Hills), located in Inver Grove Heights, Minnesota. The revision, submitted by the Minnesota Pollution Control Agency (MPCA) on May 1, 2015, incorporates a more stringent limit for the sulfur content of the fuel used at the facility, and modifies the fuel analysis requirements to meet the more stringent limit. These revisions will not result in an increase in SO₂ emissions at the facility.

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the Federal Register and inform the public that the rule will

not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0366 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What changes are being made to the SO₂ SIP for Inver Hills?
- III. What is EPA's analysis of the state's submission?
- IV. What action is EPA taking?
- V. Incorporation by Reference.
- VI. Statutory and Executive Order Reviews.

I. What is the background for this action?

The Inver Hills facility is a 440 Megawatt peak demand electrical generation plant. The plant has six generation units, turbines EU 001-EU 006, which can burn both natural gas and distillate fuel oil. In 1980, Inver Hills was identified by the state of Minnesota as a culpable source in the Pine Bend portion of the Minneapolis-St. Paul SO₂ nonattainment area in Dakota County. On July 28, 1992, MPCA issued an administrative

order for Inver Hills to address the source's contribution to the nonattainment problem. The SIP revision containing the administrative order was approved by EPA on September 9, 1994 (59 FR 46553). The area was subsequently redesignated to attainment of the SO₂ National Ambient Air Quality Standards (NAAQS) on May 13, 1997 (62 FR 26230), and is now a maintenance area for SO₂.

On June 8, 2004 (69 FR 31891), EPA approved a Minnesota SO₂ SIP revision, replacing the administrative order with Title I conditions for the Inver Hills facility. In addition, on December 5, 2007 (72 FR 68508), EPA approved a Minnesota SO₂ SIP revision, updating the Title I conditions for the Inver Hills facility.

II. What changes are being made to the SO₂ SIP for Inver Hills?

On May 1, 2015, MPCA submitted a request to EPA to revise the Title I SIP conditions in the SO₂ SIP for the six electric generating turbines at the Inver Hills facility. The SIP revision reduces the allowable sulfur content limit for all fuels delivered to the facility from 0.48 percent by weight to 0.005 percent by weight. In addition, the SIP revision updates the requirements necessary to demonstrate compliance with this more stringent fuel limit.

The Inver Hills SIP revision contains two methods for determining compliance with the sulfur limit for fuel oil. Method A requires Inver Hills to sample the fuel upon delivery to demonstrate compliance with the new lower fuel sulfur limit of 0.005 percent by weight. Method B requires the fuel supplier to provide a guarantee that the fuel oil has a sulfur content below a specific limit. If the fuel oil supplier provides that guarantee, Inver Hills is not required to conduct any additional sampling or analysis of the fuel oil. Since no sampling is required, the SIP revision reduces the sulfur content limit under Method B from 0.10 percent by weight to 0.0015 percent by weight.

III. What is EPA's analysis of the state's submission?

The SIP revision submitted by Minnesota imposes more stringent limits on the sulfur content of the fuel used at the Inver Hills facility. In addition, the provisions for demonstrating compliance have been revised to reflect the more stringent fuel limits. A modeling analysis was not conducted for the Inver Hills because the SIP revision imposes more stringent SO₂ emission limits at the facility, resulting in a decrease in SO₂ emissions. Because the revision strengthens the existing SO₂ SIP for Inver Hills, EPA deems the submittal

approvable.

IV. What action is EPA taking?

EPA is approving the request by Minnesota to revise the Title I SIP conditions in Minnesota's SO₂ SIP that apply to the Inver Hills facility. Specifically, EPA is approving into the SIP only those portions of Inver Hills' Title V permit, No. 03700015-004, cited as "Title I Condition: State Implementation Plan for SO₂." These Title I SIP conditions replace the current SO₂ SIP for Inver Hills.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public

comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

V. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided

that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report,

which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than

file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 13, 2016.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for "Xcel Energy-Inver Hills Generating Plant" to read as follows:

§ 52.1220 Identification of plan.

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(d) * * *

EPA--APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of Source	Permit Number	State effective date	EPA approval date	Comments
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Xcel Energy-Inver Hills Generating Plant.	03700015-004	07/16/14	<u>[insert the date of publication in the Federal Register]</u> , [Insert Federal Register citation]	Only conditions cited as "Title I condition: SIP for SO ₂ NAAQS."
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